

## Judge Decides North Kitsap Man Acquitted of Assault Should Get \$48K Back

By Josh Farley

Friday, July 30, 2010

PORT ORCHARD —

A North Kitsap man is entitled to nearly \$50,000 in legal fees and other costs incurred while successfully defending himself in court against a domestic-violence assault charge, Kitsap County District Court Judge Marilyn Paja ruled this week.

Under a state law rarely seen in Kitsap's courts, Roland L. Savage, 52, is eligible for \$48,752, Paja ruled.

The law says that defendants can recoup legal fees, loss of income and other expenses if jurors decide their use of force was "more likely than not" a legal act of self-defense. The money is paid out by the state, not the county.

People acquitted after merely denying they committed a crime or using another defense aren't entitled to reimbursement, according to Savage's attorney, Alton McFadden. And filing a lawsuit is the only way people found to be wrongfully convicted are eligible for compensation from Washington state, according to John Pantazis, a lawyer for the Innocence Project Northwest at the University of Washington.

The reimbursement for self-defense is rare. Only a few criminal assault cases involve a self-defense argument, and in only a handful of those cases does a jury decide a defendant deserves money back.

Kitsap County District Court Administrator Maury Baker said he can remember only one other time the law has been invoked in his 20 years on the job. "This is an absolute anomaly," he said.

Paja made her ruling in writing following an oral argument Tuesday. The Kitsap County Prosecutor's Office did not take a position on the payment. McFadden argued that his client deserved \$48,752 and Paja eventually obliged.

Kitsap County Sheriff's deputies arrested Savage on suspicion of assaulting his wife on Jan. 1. Jurors acquitted him in June of one count of fourth-degree domestic violence assault.

The same jurors were sent back into deliberations with a new set of instructions. They were asked to consider “whether a reasonably prudent person, under the same or similar conditions existing at the time of the incident, would have used the same degree of force as the defendant.” The jury decided that it was “more likely than not” true that another reasonable person would have used the same amount of force, and Savage was awarded the money.

McFadden will get almost \$25,000 of the \$48,752. Other expenses include \$500 for bail; \$1,962 in fuel costs, charged at 50.5 cents per mile, for driving to and from court appearances; \$3,000 for rent; and the rest to cover lost wages.

Savage, a contractor by trade, submitted receipts as evidence of the expenses.

Savage said Tuesday that he was thankful he had the means to fight the charge.

“It’s unfortunate for some that they don’t get that opportunity,” he said, “Because they could not afford it.”

